

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814



March 16, 1994

ALL-COUNTY LETTER NO. 94-23

TO: ALL COUNTY WELFARE DIRECTORS

REASON FOR THIS TRANSMITTAL

- ☒ State Law Change
- ☐ Federal Law or Regulation Change
- ☐ Court Order or Settlement Agreement
- ☐ Clarification Requested by One or More Counties
- ☐ Initiated by CDSS

SUBJECT: ASSEMBLY BILL 1197 (CHAPTER 1088, STATUTES OF 1993) RE PLACEMENT OF CHILDREN UNDER SIX YEARS OF AGE

REFERENCE:

The purpose of this letter is to provide a summary of Assembly Bill (AB) 1197 (Chapter 1088, Statutes of 1993). AB 1197 states the intent of the Legislature that very young children should be placed in family homes, places restrictions on the placement of these children into group homes, and requires the California Department of Social Services (CDSS) to develop placement standards for very young children. AB 1197 is effective January 1, 1994.

LEGISLATIVE INTENT

In this legislation, the Legislature states its intent that very young children, from birth to six years of age, be placed in family homes rather than group homes or institutional settings. This recognizes that these very young children have special needs resulting from the trauma of separation from their families when they are removed from their homes and placed in out-of-home care.

The Legislature also recognizes that not all counties have adequate family resources to care for these very young children. Some counties have recently moved in the direction of replacing large public institutions with smaller group settings for very young children. The Legislature also stated its intent that the CDSS, counties and providers work together to identify existing barriers to placing very young children in family homes and to develop resources in each county that will meet the special needs of this population.

RESTRICTIONS ON GROUP HOME PLACEMENTS

The legislation added Section 319.2 to the Welfare and Institutions Code (WIC). This Section permits placement of a child under six years of age who is detained by the court in a group home or a temporary shelter care facility only

when the court finds that placement is necessary to secure a complete and adequate evaluation, including placement planning and transition time. This placement period is not to exceed 60 days unless a case plan has been developed and the need for additional time is documented in the case plan and has been approved by the supervisor of the caseworker's supervisor. The legislation defines a temporary shelter care facility (Health and Safety Code Section 1530.8) as a facility owned and operated by the county that provides 24-hour care and supervision on a short-term basis for dependent children under 18 years of age who have been removed from their homes as a result of abuse or neglect as defined in WIC Section 300.

The legislation amended WIC Section 361.2. It permits placement of a child under six years of age in a licensed group home or a temporary shelter care facility only under specified circumstances. The first circumstance is when the case plan indicates placement is for the purpose of providing specialized treatment to the child. The case plan must also specify the need for, nature of, and anticipated duration of the treatment. The specialized treatment period is not to exceed 120 days, unless additional time is needed. This must be documented in the case plan and approved by the caseworker's supervisor. A placement may be extended beyond the 120 day period if the child is terminally ill, as defined in regulations promulgated by the CDSS.

The second circumstance in which a child may be placed in a licensed group home or temporary shelter care facility is when the case plan indicates that placement is for the purpose of providing family reunification services. The facility in which the child is placed must offer family reunification services that meet the needs of the individual child and his or her family. The facility must permit parents to have reasonable access to their children 24 hours a day and encourage extensive parental involvement in meeting their children's daily needs. The facility must employ staff trained to provide family reunification services. In addition, one of the following conditions must exist:

- o The child's parent is also a ward or dependent of the court and resides in the same facility.
- o The child's parent is participating in a treatment program affiliated with the facility and the child's placement in the facility facilitates the coordination and provision of reunification services.
- o Placement in the facility is the only alternative that permits the parent to have daily 24-hour access to the child, as determined necessary in the case plan, and to participate fully in meeting all of the daily needs of the child, including feeding and personal hygiene, and to have access to necessary reunification services.

DEVELOPMENT OF STANDARDS

The legislation requires the CDSS to develop standards to address the specific needs of very young children who must be placed in out-of-home care. These standards are to provide normative guidelines differentiated by the needs specific to infants from birth to two years of age, toddlers from two to four years of age, and preschool-age children from four to six years of age. The standards must reflect the needs of all children for a family-like setting that provides culturally appropriate nurturing, and safety.

These standards are to be developed in consultation with specified agencies and organizations concerned with children's issues including the County Welfare Directors Association, Association of Regional Center Agencies, National Association of Social Workers, State Department of Developmental Services, provider associations, etc. The CDSS will establish a work group composed of representatives of these various agencies and organizations to develop these standards. Additionally, the Community Care Licensing Division is required to adopt regulations for group homes and temporary shelter care facilities that care for children under six. These regulations will be based on the standards developed and adopted by the CDSS.

This legislation supports the CDSS' goals to promote and support family home environments and individualized services to children. We believe these concepts and goals are especially important and in the best interest of very young children when it becomes necessary to place them in out-of-home care.

If you have any questions regarding this legislation, please contact your Child Welfare Services Operations consultant at (916) 445-2750.


MARJORIE KELLY
Deputy Director
Children and Family Services Division

Enclosure

Assembly Bill No. 1197

CHAPTER 1088

An act to add Section 1530.8 to the Health and Safety Code, and to amend Section 361.2 of, and to add Sections 319.2 and 11467.1 to, the Welfare and Institutions Code, relating to community care facilities.

[Approved by Governor October 10, 1993. Filed with
Secretary of State October 11, 1993.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1197, Bates. Community care facilities: group homes for children.

(1) Existing law, the California Community Care Facilities Act, provides for the licensure and regulation of community care facilities, including group homes and other residential facilities for the care of children, by the State Department of Social Services. Existing law makes it a misdemeanor to violate the act or willfully or repeatedly violate any rule or regulation adopted pursuant to the act.

Existing law requires, by July 1, 1994, the department to develop a standard form for program statements for ratesetting, community care licensing, and county placement purposes for group homes, foster family agencies, and small family homes.

This bill would require the department to adopt regulations for community care facilities licensed as group homes and temporary shelter care facilities, as defined, that care for dependent children, children placed by a regional center, or voluntary placements who are under the age of 6 years. Since the willful or repeated violation of these regulations would be a crime, this bill would impose a state-mandated local program.

(2) Existing law requires a court, at the initial hearing on a petition to adjudge a minor a dependent child of the juvenile court, to order a minor who is not released from the custody of the court to be temporarily placed in the suitable home of a relative or in an emergency shelter or other suitable licensed place or place exempt from licensure or in an appropriate certified family home whose license is pending and all the prelicense requirements for this placement have been met for a period not to exceed 15 judicial days.

This bill would authorize, when a child under the age of 6 years is not released from the custody of the court, the placement of the child in a community care facility licensed as a group home for children or a temporary shelter care facility, as defined, only under prescribed circumstances.

(3) Existing law requires that when a court orders removal of a minor adjudged a dependent child of the court, the court is required to order the care, custody, control, and conduct of the minor to be

under the supervision of a probation officer who may place the minor in specified placements.

This bill would include in those placements that a child under 6 years of age may be placed in a community care facility licensed as a group home for children or a temporary shelter care facility, as defined, under certain conditions.

(4) The bill would require the department to assess the needs of young children and adopt standards in consultation with interested parties.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature that, in order to meet their specific needs resulting from the trauma of separation from their family, very young children, from birth to six years of age, who are removed from their home be placed in family homes, not group care or institutional settings. The Legislature recognizes that, due to a lack of existing resources in some counties, it is not yet possible to accomplish this intent and that currently some counties are moving in the direction of replacing large public institutional placements with smaller group settings for very young children. The Legislature further intends for the state, counties, and providers to work together to identify existing barriers to placing very young children in family homes and to develop the necessary family home resources in each county that meet the special needs of this population.

SEC. 2. Section 1530.8 is added to the Health and Safety Code, to read:

1530.8. (a) The department shall adopt regulations for community care facilities licensed as group homes, and for temporary shelter care facilities as defined in subdivision (c), that care for dependent children, children placed by a regional center, or voluntary placements, who are younger than 6 years of age. The department shall adopt these regulations after assessing the needs of this population and developing standards pursuant to Section 11467.1 of the Welfare and Institutions Code.

(b) The regulations shall include physical environment standards, including staffing and health and safety requirements, that meet or exceed state child care standards under Title 5 and Title 22 of the California Code of Regulations.

(c) For purposes of this section, a "temporary shelter care facility" means any residential facility that meets all of the following

requirements:

- (1) It is owned and operated by the county.
- (2) It is a 24-hour facility that provides short-term residential care and supervision for dependent children under 18 years of age who have been removed from their homes as a result of abuse or neglect, as defined in Section 300 of the Welfare and Institutions Code, or both.

SEC. 3. Section 319.2 is added to the Welfare and Institutions Code, to read:

319.2. Notwithstanding Section 319, when a child under the age of six years is not released from the custody of the court, the child may be placed in a community care facility licensed as a group home for children or in a temporary shelter care facility, as defined in Section 1530.8 of the Health and Safety Code, only when the court finds that placement is necessary to secure a complete and adequate evaluation, including placement planning and transition time. The placement period shall not exceed 60 days unless a case plan has been developed and the need for additional time is documented in the case plan and has been approved by the supervisor of the caseworker's supervisor.

SEC. 4. Section 361.2 of the Welfare and Institutions Code is amended to read:

361.2. (a) When a court orders removal of a minor pursuant to Section 361, the court shall first determine whether there is a parent of the minor, with whom the minor was not residing at the time that the events or conditions arose that brought the minor within the provisions of Section 300, who desires to assume custody of the minor. If such a parent requests custody the court shall place the minor with the parent unless it finds that placement with that parent would be detrimental to the minor.

If the court places the minor with such a parent it may do either of the following:

(1) Order that such parent become legal and physical custodian of the child. The court may also provide reasonable visitation by the noncustodial parent. The court shall then terminate its jurisdiction over the minor. The custody order shall continue unless modified by a subsequent order of the superior court. The order of the juvenile court shall be filed in any domestic relation proceeding between the parents.

(2) Order that the parent assume custody subject to the supervision of the juvenile court. In such a case the court may order that reunification services be provided to the parent or guardian from whom the minor is being removed, or the court may order that services be provided solely to the parent who is assuming physical custody in order to allow that parent to retain later custody without court supervision, or that services be provided to both parents, in which case the court shall determine, at review hearings held pursuant to Section 366, which parent, if either, shall have custody

of the minor.

(b) When the court orders removal pursuant to Section 361, the court shall order the care, custody, control, and conduct of the minor to be under the supervision of the probation officer who may place the minor in any of the following:

- (1) The home of a relative, including a noncustodial parent.
- (2) A foster home in which the child has been placed before an interruption in foster care, if that placement is in the best interest of the child and space is available.
- (3) A suitable licensed community care facility.
- (4) With a foster family agency to be placed in a suitable licensed foster family home or certified family home which has been certified by the agency as meeting licensing standards.
- (5) A home or facility in accordance with the federal Indian Child Welfare Act.
- (6) A child under the age of six years may be placed in a community care facility licensed as a group home for children, or a temporary shelter care facility as defined in Section 1530.8 of the Health and Safety Code, only under any of the following circumstances:

(A) When a case plan indicates that placement is for purposes of providing specialized treatment to the child, the case plan specifies the need for, nature of, and anticipated duration of this treatment, and the facility meets the applicable regulations adopted under Section 1530.8 of the Health and Safety Code and standards developed pursuant to Section 11467.1. The specialized treatment period shall not exceed 120 days, unless additional time is needed pursuant to the case plan as documented by the caseworker and approved by the caseworker's supervisor. A placement may be extended beyond the 120 period if the child is terminally ill, as defined by regulations of the department.

(B) When a case plan indicates that placement is for purposes of providing family reunification services. In addition, the facility offers family reunification services that meet the needs of the individual child and his or her family, permits parents to have reasonable access to their children 24 hours a day, encourages extensive parental involvement in meeting the daily needs of their children, and employs staff trained to provide family reunification services. In addition, one of the following conditions exists:

- (i) The child's parent is also a ward or dependent of the court and resides in the facility.
- (ii) The child's parent is participating in a treatment program affiliated with the facility and the child's placement in the facility facilitates the coordination and provision of reunification services.
- (iii) Placement in the facility is the only alternative that permits the parent to have daily 24-hour access to the child in accordance with the case plan, to participate fully in meeting all of the daily needs of the child, including feeding, and personal hygiene, and to

have access to necessary reunification services.

(c) If the minor is taken from the physical custody of the minor's parents or guardians and unless the minor is placed with relatives, the minor shall be placed in foster care in the county of residence of the minor's parents or guardians in order to facilitate reunification of the family.

In the event that there are no appropriate placements available in the parents' or guardians' county, a placement may be made in an appropriate place in another county, preferably a county located adjacent to the parents' or guardians' community of residence.

Nothing in this section shall be interpreted as requiring multiple disruptions of the minor's placement corresponding to frequent changes of residence by the parents or guardians. In determining whether the minor should be moved, the probation officer will take into consideration the potential harmful effects of disrupting the placement of the minor and the parents' or guardians' reason for the move.

(d) Whenever the probation officer must change the placement of the minor and is unable to find a suitable placement within the county and must place the minor outside the county, the placement shall not be made until he or she has served written notice on the parents or guardians at least 14 days prior to the placement, unless the child's health or well-being is endangered by delaying the action or would be endangered if prior notice were given. The notice shall state the reasons which require placement outside the county. The parents or guardians may object to the placement not later than seven days after receipt of the notice and, upon objection the court shall hold a hearing not later than five days after the objection and prior to the placement. The court shall order out-of-county placement if it finds that the minor's particular needs require placement outside the county.

(e) Where the court has ordered a minor placed under the supervision of the probation officer and the probation officer has found that the needs of the child cannot be met in any available licensed or exempt facility, including emergency shelter, the minor may be placed in a suitable family home that has filed a license application with the State Department of Social Services, if all of the following certification conditions are met:

(1) A preplacement home visit is made by the probation officer to determine the suitability of the family home.

(2) The probation officer verifies to the licensing agency in writing that the home lacks any deficiencies which would threaten the physical health, mental health, safety, or welfare of the minor.

(3) The probation officer notifies the licensing agency of the proposed placement and determines that the foster family home applicant has filed specific license application documents prior to and after the placement of the minor. If the license is subsequently denied, the minor shall be removed from the home immediately.

The denial of the license constitutes a withdrawal of the certification.

(f) Where the court has ordered removal of the child from the physical custody of his or her parents pursuant to Section 361, the court shall consider whether the family ties and best interest of the minor will be served by granting visitation rights to the minor's grandparents. The court shall clearly specify those rights to the supervising probation officer.

SEC. 5. Section 11467.1 is added to the Welfare and Institutions Code, to read:

11467.1. (a) It is the intent of the Legislature that standards be developed to address the specific needs of very young children, from birth to six years of age, experiencing the trauma of separation from their family who must be placed in out-of-home care. These standards shall provide normative guidelines differentiated by the needs specific to infants from birth to two years of age, toddlers from two years of age to four years of age, and preschool from four years of age to six years of age and shall reflect the needs of all children for a family-like setting that provides culturally appropriate nurturing, and safety.

(b) The department shall assess the needs of young children and adopt standards in consultation with interested parties that shall include the following:

(1) A representative of a public interest law firm specializing in children's issues.

(2) A representative of an advocacy group representing children with developmental disabilities.

(3) A representative of the California Association of Children's Homes.

(4) A representative of the Association for Minority Adolescents in Residential Care Homes.

(5) A representative of the California Association of Services for Children.

(6) A representative of the County Welfare Directors Association.

(7) A representative of the National Association of Social Workers.

(8) A developmental psychologist specializing in children in shelter care.

(9) A psychiatrist specializing in the emotional development of young children.

(10) A pediatrician.

(11) An expert in family reunification issues.

(12) A specialist in the treatment of alcohol and other drug abuse.

(13) A representative of the Child Welfare League of America.

(14) A representative of the State Department of Developmental Services.

(15) A representative of the Association of Regional Center Agencies.

(c) The department shall develop standards that include, but are not limited to, all of the following:

(1) The elements of a safe nurturing environment that support all aspects of a child's development and provide opportunities to establish primary, trusting relationships with a carefully limited number of adults.

(2) Psychosocial needs, primary care, parental visits, developmental support, trauma recovery, appropriate discipline, and flexibility in daily activities.

(3) Guidelines for services to be provided pursuant to a case plan.

(4) To the maximum extent feasible, the requirement that significant placement changes be minimized, and that they be carefully planned and implemented.

(d) The standards shall be incorporated to the extent feasible into group home program statements required pursuant to Section 11467 of the Welfare and Institutions Code.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.